IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Second Appeal No.82 of 2000.

Laxmi Narayan Vs. Ishwari Lal Bhuwan

Date of Order ::: 01/12/2006

Hon'ble Mr. Narendra Kumar Jain, J.

Mr. Manish Sharma, Counsel for plaintiff-appellant.
Mr. S.K. Jain, Counsel for defendant-respondent

By the Court :

Heard learned counsel for both the parties.

The plaintiff-appellant filed a suit for permanent injunction based on easementory rights of air and light. During the pendency of the suit, the suit was amended and prayer was also made to demolish the constructions raised by the defendant during the pendency of the suit. The learned Lower Court although decided the Issue Nos.1, 2 and 4 in favour of the plaintiff, but while deciding Issue No.10 the learned Lower Court observed that the plaintiff could not prove any substantial damage, which is going to be caused

to the plaintiff in the facts and circumstances of the present case. Consequently, the suit of the plaintiff was dismissed. The judgment and decree passed by the Lower court has been affirmed by the First Appellate Court also.

I have heard learned counsel for both the parties and after considering their submissions in the light of the judgment and decree passed by both the Courts below, I find that the controversial issues involved in the present case are relating to the question of facts and there is a concurrent finding of fact recorded by both the Courts belows, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

No substantial questions of law are involved in this second appeal.

Consequently, the second appeal is dismissed at the admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.

ashok/